



House of Representatives

General Assembly

File No. 550

February Session, 2012

Substitute House Bill No. 5552

House of Representatives, April 19, 2012

The Committee on Judiciary reported through REP. FOX, G. of the 146th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING THE PENALTIES FOR FAILURE TO REPORT CHILD ABUSE.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 53-21 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2012*):

3 (a) Any person who (1) wilfully or unlawfully causes or permits any
4 child under the age of sixteen years to be placed in such a situation
5 that the life or limb of such child is endangered, the health of such
6 child is likely to be injured or the morals of such child are likely to be
7 impaired, or does any act likely to impair the health or morals of any
8 such child, or (2) has contact with the intimate parts, as defined in
9 section 53a-65, of a child under the age of sixteen years or subjects a
10 child under sixteen years of age to contact with the intimate parts of
11 such person, in a sexual and indecent manner likely to impair the
12 health or morals of such child, or (3) intentionally and unreasonably
13 interferes with or prevents the making of a report of suspected child
14 abuse or neglect required under section 17a-101a, as amended by this

15 act, or (4) permanently transfers the legal or physical custody of a child
16 under the age of sixteen years to another person for money or other
17 valuable consideration or acquires or receives the legal or physical
18 custody of a child under the age of sixteen years from another person
19 upon payment of money or other valuable consideration to such other
20 person or a third person, except in connection with an adoption
21 proceeding that complies with the provisions of chapter 803, shall be
22 guilty of a class C felony for a violation of subdivision (1) or [(3)] (4) of
23 this subsection, a class D felony for a violation of subdivision (3) of this
24 subsection and a class B felony for a violation of subdivision (2) of this
25 subsection, except that, if the violation is of subdivision (2) of this
26 subsection and the victim of the offense is under thirteen years of age,
27 such person shall be sentenced to a term of imprisonment of which
28 five years of the sentence imposed may not be suspended or reduced
29 by the court.

30 (b) The act of a parent or agent leaving an infant thirty days or
31 younger with a designated employee pursuant to section 17a-58 shall
32 not constitute a violation of this section.

33 Sec. 2. Section 17a-101a of the 2012 supplement to the general
34 statutes is repealed and the following is substituted in lieu thereof
35 (*Effective October 1, 2012*):

36 Any mandated reporter, as defined in section 17a-101, who in the
37 ordinary course of such person's employment or profession has
38 reasonable cause to suspect or believe that any child under the age of
39 eighteen years (1) has been abused or neglected, as defined in section
40 46b-120, (2) has had nonaccidental physical injury, or injury which is at
41 variance with the history given of such injury, inflicted upon such
42 child, or (3) is placed at imminent risk of serious harm, shall report or
43 cause a report to be made in accordance with the provisions of sections
44 17a-101b to 17a-101d, inclusive. Any person required to report under
45 the provisions of this section who fails to make such report or fails to
46 make such report within the time period prescribed in sections 17a-
47 101b to 17a-101d, inclusive, and section 17a-103 shall be [fined not less

48 than five hundred dollars or more than two thousand five hundred
49 dollars] guilty of a class A misdemeanor and shall be required to
50 participate in an educational and training program pursuant to
51 subsection (d) of section 17a-101. The Commissioner of Children and
52 Families, or the commissioner's designee, shall promptly notify the
53 Chief State's Attorney when there is reason to believe that any such
54 person has failed to make a report in accordance with this section.

55 Sec. 3. Subdivision (10) of section 46b-120 of the 2012 supplement to
56 the general statutes, as amended by section 82 of public act 09-7 of the
57 September special session, sections 9 and 10 of public act 11-71, section
58 12 of public act 11-157 and section 3 of public act 11-240, is repealed
59 and the following is substituted in lieu thereof (*Effective October 1,*
60 *2012*):

61 (10) "Serious juvenile offense" means (A) the violation of, including
62 attempt or conspiracy to violate, section 21a-277, 21a-278, 29-33, 29-34,
63 29-35, subdivision (2) or [(3)] (4) of subsection (a) of section 53-21, as
64 amended by this act, 53-80a, 53-202b, 53-202c, 53-390 to 53-392,
65 inclusive, 53a-54a to 53a-57, inclusive, 53a-59 to 53a-60c, inclusive, 53a-
66 64aa, 53a-64bb, 53a-70 to 53a-71, inclusive, 53a-72b, 53a-86, 53a-92 to
67 53a-94a, inclusive, 53a-95, 53a-100aa, 53a-101, 53a-102a, 53a-103a or
68 53a-111 to 53a-113, inclusive, subdivision (1) of subsection (a) of
69 section 53a-122, subdivision (3) of subsection (a) of section 53a-123,
70 section 53a-134, 53a-135, 53a-136a or 53a-167c, subsection (a) of section
71 53a-174, or section 53a-196a, 53a-211, 53a-212, 53a-216 or 53a-217b, or
72 (B) running away, without just cause, from any secure placement other
73 than home while referred as a delinquent child to the Court Support
74 Services Division or committed as a delinquent child to the
75 Commissioner of Children and Families for a serious juvenile offense;

76 Sec. 4. Subsection (a) of section 54-36p of the general statutes is
77 repealed and the following is substituted in lieu thereof (*Effective*
78 *October 1, 2012*):

79 (a) The following property shall be subject to forfeiture to the state
80 pursuant to subsection (b) of this section:

81 (1) All moneys used, or intended for use, in a violation of
 82 subdivision [(3)] (4) of subsection (a) of section 53-21, as amended by
 83 this act, or section 53a-86, 53a-87, 53a-90a, 53a-189a, 53a-189b, 53a-192a,
 84 53a-196a, 53a-196b or 53a-196c;

85 (2) All property constituting the proceeds obtained, directly or
 86 indirectly, from a violation of subdivision [(3)] (4) of subsection (a) of
 87 section 53-21, as amended by this act, or section 53a-86, 53a-87, 53a-
 88 90a, 53a-189a, 53a-189b, 53a-192a, 53a-196a, 53a-196b or 53a-196c;

89 (3) All property derived from the proceeds obtained, directly or
 90 indirectly, from any sale or exchange for pecuniary gain from a
 91 violation of subdivision [(3)] (4) of subsection (a) of section 53-21, as
 92 amended by this act, or section 53a-86, 53a-87, 53a-90a, 53a-189a, 53a-
 93 189b, 53a-192a, 53a-196a, 53a-196b or 53a-196c;

94 (4) All property used or intended for use, in any manner or part, to
 95 commit or facilitate the commission of a violation for pecuniary gain of
 96 subdivision [(3)] (4) of subsection (a) of section 53-21, as amended by
 97 this act, or section 53a-86, 53a-87, 53a-90a, 53a-189a, 53a-189b, 53a-192a,
 98 53a-196a, 53a-196b or 53a-196c.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2012	53-21
Sec. 2	October 1, 2012	17a-101a
Sec. 3	October 1, 2012	46b-120(10)
Sec. 4	October 1, 2012	54-36p(a)

Statement of Legislative Commissioners:

Sections 3 and 4 have been added to the bill to make conforming technical changes which are consistent with the changes made in section 1 of the bill.

JUD Joint Favorable Subst.

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 13 \$	FY 14 \$
Judicial Dept.	GF - Potential Revenue Loss	Minimal	Minimal
Judicial Dept (Probation)/Dept of Correction	GF - Potential Cost	See Below	See Below

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill changes the penalty for a mandated reporter of child abuse and may result in a potential minimal revenue loss to the General Fund.¹

The bill also creates a new felony in regards to mandated reporting. The extent of the impact is unclear as this is a new offense but it is anticipated relatively few fines would be imposed on an annual basis.

To the extent that offenders are prosecuted criminally and subsequently convicted or plead guilty, the state could incur a cost associated with incarceration and/or probation supervision in the community. On average, it costs the state \$3,736 to supervise an offender on probation in the community as compared to \$44,165 to incarcerate the offender.

The Out Years

¹ However this is unlikely to result in a fiscal impact as this offense rarely occurs. No revenue has been generated from this offense since 2003. Five offenders have been charged (and dismissed) since 2006.

The annualized ongoing fiscal impact identified above would continue into the future subject to the number of offenders who violate this statute.

Sources: Judicial Department Offenses and Revenue Database

OLR Bill Analysis**sHB 5552*****AN ACT CONCERNING THE PENALTIES FOR FAILURE TO REPORT CHILD ABUSE.*****SUMMARY:**

This bill makes it a class A misdemeanor, rather than an offense punishable by a fine between \$500 and \$2,500, for a person required to report suspected child abuse (a “mandated reporter”) or cause such a report be made to the Department of Children and Families (DCF) to either (1) fail to do so or (2) make the report after statutory deadlines have passed. It retains existing requirements that (1) the commissioner or a designee promptly notify the chief state’s attorney when there is reason to believe that a mandated reporter has violated the reporting laws and (2) such reporters participate, at their own expense, in a DCF-established and -approved education and training program.

Class A misdemeanors are punishable by imprisonment for up to one year, a fine of up to \$2,000 (which can be less than the minimum or maximum fine that may be imposed under current law), or both.

The bill also adds to the crime of injury or risk of injury to, or impairing the morals of a child. A person commits the crime by intentionally and unreasonably interfering with or preventing a mandated reporter from carrying out his or her statutory reporting obligations. The bill makes this crime a class D felony, punishable by imprisonment for up to five years, a fine of up to \$5,000, or both.

EFFECTIVE DATE: October 1, 2012

BACKGROUND***Reportable Incidents and Statutory Deadlines***

The law requires mandated reporters to notify DCF when, during

the ordinary course of their employment or profession, they have reasonable cause to suspect or believe that a child under age 18:

1. has been abused or neglected;
2. has had a nonaccidental physical injury, or one that varies from the history given, inflicted on him or her; or
3. is placed at imminent risk of serious harm (CGS § 17a-101a).

The reporter must notify DCF or a law enforcement agency of his or her reasonable suspicion or belief as soon as practicable, but no later than 12 hours after he or she forms this opinion. The report may be made by telephone or in person. The mandated reporter must file a written report with the commissioner or her representative within 48 hours of the first report.

DCF and mandated reporters are subject to additional reporting requirements when the suspected abuser is on the staff of a public or private school.

Mandated Reporters

Mandated reporters (as listed in CGS § 17a-101) are:

1. licensed physicians or surgeons;
2. resident physicians or interns working in Connecticut hospitals;
3. registered or licensed practical nurses;
4. medical examiners;
5. dentists and dental hygienists;
6. psychologists;
7. certain school employees who have regular contact with students at public or private elementary, middle, or high schools;

8. social workers;
9. police officers;
10. juvenile and adult probation and parole officers;
11. members of the clergy;
12. pharmacists;
13. physical therapists;
14. optometrists;
15. chiropractors and podiatrists;
16. mental health professionals or physician assistants;
17. licensed or certified emergency medical services providers;
18. licensed or certified alcohol and drug counselors;
19. licensed marital and family therapists;
20. sexual assault or battered women's counselors;
21. licensed professional counselors;
22. licensed foster parents;
23. people paid to care for children in a public or private facility, child day care center, group day care center, group day care home, or family day care home licensed by the state;
24. DCF employees;
25. Department of Public Health employees responsible for licensing child day care centers, group day care homes, family day care homes, or youth camps;
26. the child advocate and her employees; and

27. Judicial Branch employees working as family relations counselors, counselor trainees, and family services supervisors.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute

Yea 44 Nay 0 (04/02/2012)